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Thomas Chronister

VENTURA
SUPERIOR COURT
FILED

MAY - 2 2013

MICHAEL J. DYER
Judge
LYDIA GONZALEZ Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF VENTURA

THOMAS CHRONISTER

Plaintiff/Petitioner

vs.

CITY OF OXNARD, a municipal entity;
OXNARD POLICE DEPARTMENT, a
government agency; KAREN
BURNHAM, Interim City Manager for
the City of Oxnard; JERI WILLIAMS,
Chief of Police for City of Oxnard; and
DOES 1 through 20, inclusive,

Defendants/Respondents

Case No. 56-2013-00435899-CU-OE-VTA
Assigned for all purposes to:
Hon.

CIVIL COMPLAINT:

- 1) INJUNCTIVE/MANDAMUS RELIEF
Gov't Code §3300, et seq.
- 2) MANDAMUS RELIEF
C.C.P. §1085
- 3) MANDAMUS RELIEF
C.C.P. §1085
- 4) CIVIL RIGHTS VIOLATIONS
42 U.S.C. §1983

Request for Jury Trial

VENUE AND JURISDICTION

1. Venue is proper in the Superior Court of the State of California, for the County of Ventura in that the underlying acts, omissions, injuries and related facts and circumstances giving rise to the present action occurred in the City of Oxnard, County of Ventura, California. This Court has jurisdiction over the present matter because, as delineated within this complaint, the nature of the claims and amount in controversy

1 meet the requirements of jurisdiction in the Superior Court. This Court is empowered
2 with initial jurisdiction to entertain suits brought pursuant to California Government Code
3 §3300, et seq., and Code of Civil Procedure §1085, and has concurrent jurisdiction to
4 entertain suits under the Federal Civil Rights Act, 42 U.S.C. §1983.

5 2. Under Government Code §3309.5, Plaintiff need not exhaust all his
6 administrative remedies, and therefore Plaintiff asserts that he has exhausted all
7 administrative remedies required of him. Additionally, Plaintiff alleges that he has
8 exhausted all administrative remedies afforded by the defendants and, to the extent a
9 tort claim notice is required, plaintiff timely filed a tort claim that have either been
10 rejected or deemed rejected by operation of law.

11 PARTIES

12
13 3. Plaintiff, Thomas Chronister ("Plaintiff" "Petitioner" or "Chronister"), was a
14 full time sworn peace officer employed by the Oxnard Police Department and held the
15 rank of Commander. It is believed that all of Plaintiff's evaluations showed him to be an
16 outstanding employee who moved up the ranks of the Oxnard Police Department to his
17 final position of Commander. As such, Chronister had a vested right in his continued
18 employment and paycheck that would entitle Chronister to all due process rights under
19 the California and United States Constitutions. Chronister was entitled to the rights and
20 protections set forth therein under California Government Code Section 3300 et seq.

21 4. Defendant, City of Oxnard, is a Municipal Corporation existing under the
22 Constitution and the laws of the State of California. The City of Oxnard, via state law,
23 resolution, policy and past practice, has afforded sworn members of the Oxnard Police
24 Department with the same rights as afforded to sworn peace officers under
25 Government Code §3300, et seq.

26 5. The City of Oxnard has as one of its constituent parts, a police department
27 that employs both sworn police officers and civilians, having as its primary function the
28 provision of police services to the residents of the City of Oxnard. The Chief of Police,

1 Jeri Williams was the department head and appointing authority for the Oxnard Police
2 Department. The Chief of Police is charged by custom and practice with the
3 administration of the Department, which includes the authorization of investigations into
4 allegations of misconduct by Department employees and the imposition of disciplinary
5 action against Department employees, all in accordance with the rules, regulations,
6 ordinances, policies and procedures of the City of Oxnard and the Department, as well
7 as state and federal law.

8 6. At all time mentioned herein, it is believed the Defendant KAREN
9 BURNHAM, was and is the Interim City Manager for the City of Oxnard and was acting
10 in her official and individual capacity. Defendant Burnham was responsible for affording
11 and/or conducting administrative appeal hearing; directing and supervising the Chief of
12 Police, and insuring employees were provided due process and their other
13 constitutional rights as employees of the City.

14 7. The true names and capacities of Respondents sued herein as DOES 1
15 through 5, inclusive, are currently unknown to Petitioner who therefore sue said
16 Respondents by such fictitious names. Petitioner is informed and believes and thereon
17 alleges that each of the Respondents designated herein as a Doe is legally responsible
18 in some manner for the events and happenings referred to herein, and caused injury
19 and damage proximately thereby to Plaintiff as hereinafter alleged. Petitioner will seek
20 leave of court to amend this complaint to show the true names and capacities of the
21 Respondents designated herein as Does when the same have been ascertained.

22 8. Whenever in this complaint reference is made to Defendants and/or
23 Respondents, and each of them, such allegations shall be deemed to mean the acts of
24 Respondents acting individually, jointly and/or severally.

25 9. Petitioner is informed and believes and thereon alleges that at all times
26 mentioned herein, each of the Respondents was the agent, servant and employee, co-
27 venturer and co-conspirator of each of the remaining Respondents, and was at all times
28 mentioned herein acting within the course, scope, purpose, consent, knowledge,

1 ratification and authorization of such agency, employment, joint venture and conspiracy.

2 **FACTUAL ALLEGATIONS**

3 10. Plaintiff filed his retirement papers and, in fact, retired honorably from the
4 Oxnard Police Department on July 1, 2012, with a service retirement. Nevertheless, in
5 retaliation for Plaintiff having a social relationship with a person not liked by the police
6 administration, the Police Department conducted a faux internal investigation, which
7 included an ordered interrogation of Plaintiff without being afforded any rights under
8 Government Code §3303; and the implementation of disciplinary/punitive action against
9 Plaintiff a month and a half after his retirement. The disciplinary/punitive action was
10 based on Plaintiff's relationship with a person alleged to be under criminal investigation,
11 but that had not been tried or found guilty of any offense.

12 11. It is believed that Defendant City of Oxnard and Defendant Oxnard Police
13 Department have an unconstitutional rule, that is arbitrarily enforced, regarding
14 "associations" with a person under criminal investigation. It is further believed and
15 thereupon alleged that a number of officers of the Oxnard Police Department are under
16 criminal investigation and other members of the Police Department are allowed to
17 maintain relationships with these people under criminal investigation.

18 12. As part of the disciplinary/punitive action, the Police Department proposed
19 retroactively finding that Plaintiff's retirement was not in good standing and denied
20 Plaintiff the "privileges" outlined in the Oxnard Police Department
21 Retirement/Separation Protocol, including but not limited to, the exclusion from events
22 put on by the Police Department and/or labor associations; the issuance of a flat badge
23 and the issuance of a concealed carry weapons (CCW) endorsement identification
24 card. Additionally, Defendants ordered and did confiscate, without any right to seize
25 said items, Plaintiff's retirement badge and ID card.

26 13. Plaintiff, believing that the allegations against him were not supported by
27 facts or were allowed under the law, requested a pre-disciplinary hearing. This hearing
28 took place on or about October 30, 2012. Without any representative of the city putting

1 on or submitting evidence, the Chief of Police upheld the disciplinary action and gave
2 notice of her action on or about November 5, 2012, and said notice was sent via
3 certified mail.

4 14. On November 13, 2012, Plaintiff, via counsel, put Defendant City,
5 Defendant Police Department, Defendant Burhman and Defendant Police Chief on
6 notice that the action violated Plaintiff's rights and that the alleged activity giving rise to
7 the disciplinary action was legal and/or could not form the basis for disciplinary action
8 against him. Plaintiff requested an administrative appeal of the disciplinary action and
9 invoked any and all due process/liberty interest rights granted to him by Defendants,
10 state and/or federal law.

11 15. On that same date, Plaintiff also requested hearing on his CCW permit
12 denial/revocation.

13 16. On or about November 21, 2012, a representative of the City of Oxnard's
14 Human Resources Department contacted counsel for Plaintiff and confirmed receipt of
15 the Plaintiff's request for an administrative hearing, invocation of due process/liberty
16 interest rights, and request for a CCW appeal hearing. The representative indicated
17 that regarding the disciplinary appeal, the only hearing Plaintiff was entitled to was a
18 hearing with the City Manager. The representative indicated that she would research
19 available hearing dates and the process for the CCW appeal hearing and get back to
20 counsel.

21 17. No further contact has been received from Defendants and Plaintiff has
22 not been provided an administrative appeal, due process/liberty hearing, nor a CCW
23 appeal hearing.

24 18. Defendants, and each of them, either individually and/or through a
25 conspiracy, have and continue to deny Plaintiff the use and enjoyment of a right(s) to
26 which he is entitled; to wit, an honorable retirement, all benefits of an honorable
27 retirement, a CCW permit, administrative appeal of punitive action, due process and
28 other benefits.

1 19. Defendants, and each of them, have and continue to fail to act in
2 accordance with their ministerial duty to comply with state law and its own rules and
3 regulations regarding retirements, administrative appeals, CCW appeals, and due
4 process/liberty interest rights.

5 20. It is further alleged that Defendants, and each of them, have proceeded in
6 such a manner as to deny Plaintiff his due process of law and a fair hearing.

7 21. Defendants, and each of them, continue, as of the time of this Complaint ,
8 to maintain in Plaintiff's personnel/IA file and/or files used for personnel purposes and
9 that are discoverable in civil and criminal actions, copies of these unlawful disciplinary
10 actions that are believed to be false and misleading. By continuing to not afford Plaintiff
11 with the opportunity for administrative appeals, and/or liberty hearing, Defendants, and
12 each of them, are prohibiting Plaintiff from challenging the factual correctness and
13 propriety of these disciplinary actions and/or clearing his good name.

14 22. Defendants, and each of them, are believed to have intentionally and
15 maliciously violated Plaintiff's right under Government Code §3300, et seq., including,
16 but are not limited to Government Code sections 3303, 3304, 3304.5, and 3309.5.

17 23. Defendants, and each of them, had and have a ministerial duty to strictly
18 follow their written Rules and Regulations, as they relate to disciplinary actions and
19 processes.

20 24. Plaintiff alleges that Defendants, and each of them failed to comply with
21 their ministerial duty in conducting disciplinary investigation and implementing the
22 disciplinary process when taking action against Plaintiff. By said actions, Defendants
23 and each of them, caused harm to Plaintiff and denied Plaintiff the use and/or
24 enjoyment of a right or office to which the he is entitled.

25 25. Plaintiff alleges that Defendants undertook the above actions in order to
26 promote its/their/his wish to vex, annoy, or injure another person, or an intent to do a
27 wrongful act. Defendants knew or should have known that by taking the above actions,
28 the officer's and/or his name in law enforcement would be harmed and/or that

1 Defendants were violating Plaintiffs' established rights.

2 26. As a direct result of Defendants' behavior, Plaintiff has and will continue to
3 incur harm and attorney's fees in an effort to redress the damages which he has
4 sustained as a result of said Defendants' outrageous behavior.

5 27. Plaintiff's individual and/or aggregate damages exceed the sum of
6 \$25,000 excluding attorney fees, thus, requiring either federal court or state superior
7 court jurisdiction. Plaintiff will amend his/her/its complaint to allege any individual
8 known to him who have caused such negligence and intentional misconduct on the part
9 of the Defendants and through the Defendants listed above.

10
11 **FIRST CAUSE OF ACTION**

12 **FOR RELIEF PURSUANT TO GOVERNMENT CODE §3309.5**

13 **Against City of Oxnard and Oxnard Police Department**

14 28. Plaintiff Chronister, for a First Cause of Action against Defendants City of
15 Oxnard and Oxnard Police Department, and each of them, seeks a Temporary
16 Restraining Order, Preliminary Injunction, Permanent Injunction, Extraordinary Relief
17 and/or ancillary Statutory Penalties for violation of the Public Safety Officers Procedural
18 Bill of Rights Act, Government Code, Section 3300 et seq., realleges paragraphs 1
19 through 30 as herein above set forth and further alleges:

20 29. Government Code §3303 provides, in pertinent part:

21 "When any public safety officer is under investigation and subjected to
22 interrogation by his or her commanding officer, or any other member of the employing
23 public safety department, that could lead to punitive action, the interrogation shall be
24 conducted under the following conditions. For the purpose of this chapter, punitive
25 action means any action that may lead to dismissal, demotion, suspension, reduction in
26 salary, written reprimand, or transfer for purposes of punishment.

27 (a) The interrogation shall be conducted at a reasonable hour, preferably
28 at a time when the public safety officer is on duty, or during the normal waking hours for

1 the public safety officer, unless the seriousness of the investigation requires otherwise.
2 If the interrogation does occur during off-duty time of the public safety officer being
3 interrogated, the public safety officer shall be compensated for any off-duty time in
4 accordance with regular department procedures, and the public safety officer shall not
5 be released from employment for any work missed.

6 (b) The public safety officer under investigation shall be informed prior to
7 the interrogation of the rank, name, and command of the officer in charge of the
8 interrogation, the interrogating officers, and all other persons to be present during the
9 interrogation.

10 (c) The public safety officer under investigation shall be informed of the
11 nature of the investigation prior to any interrogation.

12 (g) The complete interrogation of a public safety officer may be recorded.
13 If a tape recording is made of the interrogation, the public safety officer shall have
14 access to the tape if any further proceedings are contemplated or prior to any further
15 interrogation at a subsequent time. The public safety officer shall be entitled to a
16 transcribed copy of any notes made by a stenographer or to any reports or complaints
17 made by investigators or other persons, except those which are deemed by the
18 investigating agency to be confidential. No notes or reports that are deemed to be
19 confidential may be entered in the officer's personnel file.

20 (l) Upon the filing of a formal written statement of charges, or whenever
21 an interrogation focuses on matters that are likely to result in punitive action against any
22 public safety officer, that officer, at his or her request, shall have the right to be
23 represented by a representative of his or her choice who may be present at all times
24 during the interrogation.

25 30. Plaintiff alleges that while conducting an administrative investigation into
26 allegations of misconduct against him, Defendants purposely scheduled interrogations
27 of Plaintiff, that could lead to punitive action, and ordered him to appear for interview
28 without any required notices or admonishments. Defendants then used statement from

1 said interrogation(s) as a basis for punitive action.

2 31. Plaintiff alleges that Defendants coordinated and/or conducted
3 interrogations of him without informing him prior to the interrogation of the rank, name,
4 and command of the officer in charge of the interrogation, the interrogating officers, and
5 all other persons to be present during the interrogation.

6 32. Defendants interrogated Plaintiff without informing of the nature of the
7 investigation prior to the interrogations.

8 33. Government Code §3304 provides, in pertinent part:

9 "(b) No punitive action, nor denial of promotion on grounds other than
10 merit, shall be undertaken by any public agency against any public safety officer who
11 has successfully completed the probationary period that may be required by his or her
12 employing agency without providing the public safety officer with an opportunity for
13 administrative appeal. Furthermore Government Code §3304.5 provides "An
14 administrative appeal instituted by a public safety officer under this chapter shall be
15 conducted in conformance with rules and procedures adopted by the local public
16 agency." Plaintiff alleges that Defendants did not conduct the administrative appeal in
17 conformance with the rules and procedures adopted by the City of Oxnard; and
18 therefore, denied him an opportunity for an administrative appeal and/or violated
19 its/his/her own procedures.

20 34. Plaintiff requested an administrative appeal from punitive action, but
21 Defendants have denied him said appeal.

22 35. Government Code §3309.5 provides, in pertinent part:

23 "(a) It shall be unlawful for any public safety department to deny or refuse
24 to any public safety officer the rights and protections guaranteed to him or her by this
25 chapter.

26 (c) The superior court shall have initial jurisdiction over any proceeding
27 brought by any public safety officer against any public safety department for alleged
28 violations of this chapter.

1 (d)(1) In any case where the superior court finds that a public safety
2 department has violated any of the provisions of this chapter, the court shall render
3 appropriate injunctive or other extraordinary relief to remedy the violation and to prevent
4 future violations of a like or similar nature, including, but not limited to, the granting of a
5 temporary restraining order, preliminary, or permanent injunction prohibiting the public
6 safety department from taking any punitive action against the public safety officer.

7 (e) In addition to the extraordinary relief afforded by this chapter, upon a
8 finding by a superior court that a public safety department, its employees, agents, or
9 assigns, with respect to acts taken within the scope of employment, maliciously violated
10 any provision of this chapter with the intent to injure the public safety officer, the public
11 safety department shall, for each and every violation, be liable for a civil penalty not to
12 exceed twenty-five thousand dollars (\$25,000) to be awarded to the public safety officer
13 whose right or protection was denied and for reasonable attorney's fees as may be
14 determined by the court. If the court so finds, and there is sufficient evidence to
15 establish actual damages suffered by the officer whose right or protection was denied,
16 the public safety department shall also be liable for the amount of the actual damages.
17 Notwithstanding these provisions, a public safety department may not be required to
18 indemnify a contractor for the contractor's liability pursuant to this subdivision if there is,
19 within the contract between the public safety department and the contractor, a "hold
20 harmless" or similar provision that protects the public safety department from liability for
21 the actions of the contractor. An individual shall not be liable for any act for which a
22 public safety department is liable under this section."

23 36. Plaintiff alleges that his rights under Government Code §3300, et seq., as
24 provided above, and that he is entitled to all relief under Government Code §3309.5.
25 Plaintiff further alleges that Defendants, and each of them, maliciously violated
26 numerous provisions of Government Code §3300, et seq., with the intent to injure the
27 public safety officer and to prevent his from forming a defense to the allegations against
28 him.

1 37. Plaintiff hereby requests that the Court issue a preliminary and/or
2 permanent injunction, and/or mandamus relief to remedy the violation and to prevent
3 future violations of a like or similar nature, including, but not limited to, prohibiting the
4 public safety department from taking any punitive action against the public safety
5 officer.

6 38. As ancillary relief, Plaintiff requests that the Court grant statutory penalties
7 in the amount of \$25,000.00 per violation and reasonable attorney fees pursuant to
8 Government Code §3309.5.

9 39. Plaintiff has no plain, adequate or complete remedy at law to redress the
10 above stated violations, and this suit for equitable relief is the only means securing
11 adequate relief.

12 40. It is believed that the above articulated violations were proximately caused
13 by the DEFENDANTS, and each of their, deliberate indifference to its violations of the
14 Public Safety Officers Procedural Bill of Rights Act, and the failure to train and control
15 its officers and representatives on the provisions of the Act. The violations set forth
16 above were caused by the customs, practices, policies and decisions of defendants,
17 and each of them. Despite the fact that these defendants knew or should have known
18 of the facts that these acts, omissions, decisions, practices, customs and policies both
19 formal and informal, were being carried out by its agents and employees, defendants,
20 and each of them, have not taken steps or efforts to order a halt to this course of
21 conduct, nor make redress to this plaintiff or other employees injured thereby and has
22 failed to take any disciplinary actions whatsoever against its employees or agents who
23 act in contradiction to the Public Safety Officers Procedural Bill of Rights.

24 41. In bringing this action, Plaintiffs have sought enforcement of an important
25 right affecting the public interest which will result in the conferring of a significant benefit
26 upon a large class of persons, to wit, public employees, thereby entitling Plaintiffs to an
27 award of attorneys' fees pursuant to Code of Civil Procedure §1021.5.

28 42. Plaintiff requests this court to award damages pursuant to C.C.P. §1090

1 and 1095.

2 43. The actions of defendants, and each of them, were arbitrary and
3 capricious and, therefore, Plaintiff is entitled to recover attorneys' fees pursuant to
4 Government Code §800.

5
6 **SECOND CAUSE OF ACTION**

7 **MANDAMUS/INJUNCTIVE RELIEF -CODE OF CIVIL PROCEDURE §1085, ET SEQ.**
8 **AGAINST ALL DEFENDANTS**

9 44. Plaintiff, for a Second Cause of Action against the Defendants, and each
10 of them, reallege paragraphs 1 through 30 as herein above set forth and further alleges:

11 45. Defendants, and each of them, had a ministerial duty to strictly follow their
12 administrative regulations, municipal code and/or Memorandum of Understanding
13 covering Plaintiff's employment.

14 46. Defendants, and each of them, had a ministerial duty to act in a lawful
15 manner. Defendants failed to do so when they implemented punitive action against
16 Plaintiff and denied him his right to an administrative appeal.

17 47. Plaintiffs seeks a Writ of Mandate, pursuant to Code of Civil Procedure
18 §1085, to compel Defendants to comply with all provisions of their administrative
19 regulations, municipal code and/or pertinent Memorandum of Understanding as it/they
20 apply to Plaintiff's employment.

21 48. In bringing this action, Plaintiffs have sought enforcement of an important
22 right affecting the public interest which will result in the conferring of a significant benefit
23 upon a large class of persons, to wit, public employees, thereby entitling Plaintiffs to an
24 award of attorneys' fees pursuant to Code of Civil Procedure §1021.5.

25 49. Plaintiff requests this court to award damages ancillary to the mandamus
26 relief pursuant to C.C.P. §1090 and 1095.

27 50. The actions of defendants, and each of them, were arbitrary and
28 capricious and, therefore, Plaintiff is entitled to recover attorneys' fees pursuant to

1 Government Code §800.

2
3 **THIRD CAUSE OF ACTION**

4 **MANDAMUS/INJUNCTIVE RELIEF -CODE OF CIVIL PROCEDURE §1085, ET SEQ.**
5 **AGAINST ALL DEFENDANTS**

6 51. Plaintiff, for a Second Cause of Action against the Defendants, and each
7 of them,, reallege paragraphs 1 through 30 as herein above set forth and further
8 alleges:

9 52. California Penal Code § 26300 (Retired peace officer authorized to carry
10 concealed and loaded firearm; endorsement on identification certificate) provides, in
11 pertinent part, (b) Any peace officer employed by an agency and listed in Section 830.1
12 or 830.2 or subdivision (c) of Section 830.5 who retired after January 1, 1981, shall
13 have an endorsement on the officer's identification certificate stating that the issuing
14 agency approves the officer's carrying of a concealed and loaded firearm.

15 53. California Penal Code § 26305 provides, in pertinent part, that (d) An
16 identification certificate authorizing the officer to carry a concealed and loaded firearm
17 or an endorsement may be permanently revoked or denied by the issuing agency only
18 upon a showing of good cause. Good cause shall be determined at a hearing, as
19 specified in Section 26320.

20 54. Hearing procedure with respect to endorsement for carrying concealed
21 weapon on retired peace officer's identification certificate is applicable both to initial
22 denial of endorsement for carrying concealed weapon upon officer's retirement and a
23 revocation of a previously issued endorsement. (See *Knapp v. City of Gardena* (1990)
24 221 Cal.App.3d 344)

25 55. California Penal Code § 26320 provides, in pertinent part, that (a) Any
26 hearing conducted under this article shall be held before a three-member hearing
27 board. One member of the board shall be selected by the agency and one member
28 shall be selected by the retired peace officer or his or her employee organization. The

1 third member shall be selected jointly by the agency and the retired peace officer or his
2 or her employee organization; (b) Any decision by the board shall be binding on the
3 agency and the retired peace officer.

4 56. Plaintiff requested an appeal hearing for his denial of the CCW permit, the
5 City acknowledge receipt of the request, but has not provided a hearing to Plaintiff.

6 57. Plaintiff requests a Writ of mandate be issued requiring Defendants, and
7 each of them, to issue retired peace officer's identification certificate with endorsement
8 for carrying concealed weapon, or hold hearing in compliance with the above sections.

9 58. Defendants, and each of them, had a ministerial duty to act in a lawful
10 manner. Defendants failed to do so when they implemented punitive action against
11 Plaintiff and denied him his right to an appeal hearing.

12 59. Plaintiffs seeks a Writ of Mandate, pursuant to Code of Civil Procedure
13 §1085, to compel Defendants to comply with their ministerial duties, as provided
14 above.

15 60. In bringing this action, Plaintiffs have sought enforcement of an important
16 right affecting the public interest which will result in the conferring of a significant benefit
17 upon a large class of persons, to wit, public employees, thereby entitling Plaintiffs to an
18 award of attorneys' fees pursuant to Code of Civil Procedure §1021.5.

19 61. Plaintiff requests this court to award damages ancillary to the mandamus
20 relief pursuant to C.C.P. §1090 and 1095.

21 62. The actions of defendants, and each of them, were arbitrary and
22 capricious and, therefore, Plaintiff is entitled to recover attorneys' fees pursuant to
23 Government Code §800.

24
25 **FOURTH CAUSE OF ACTION**

26 **. VIOLATION OF CIVIL RIGHTS AGAINST ALL DEFENDANTS AND DOE 1-20**

27 **42 U.S.C. §1983**

28 63. Plaintiff Chronister, for a Fourth Cause of Action against all defendants

1 and other Doe Defendants, and each of them, and realleges paragraphs 1 through 65
2 as herein above set forth and further alleges:

3 64. This cause of action is brought pursuant to Article I, Section 10 of the
4 United States Constitution, and the First, Fifth and Fourteenth Amendment to the
5 United States Constitution and other state and/or federal laws which would entitle
6 plaintiff Chronister to recover damages for violations of his constitutional rights
7 pursuant to 42 U.S.C. §1983.

8 65. 42 U.S.C. §1983 provides in pertinent part that every person who, under
9 color of any statute, ordinance, regulation, custom, usage, or any State, subjects, or
10 causes to be subjected, any citizen of the United States or other person with the
11 jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by
12 the Constitution and laws, shall be liable to the party injured in an action in law, suit in
13 equity or other proper proceeding for redress.

14 66. Chronister alleges that his right to due process has been violated by
15 Defendants, and each of them, as Chronister has been denied any due process rights
16 as to the punitive action implemented against him and by Defendants' failure to provide
17 him a hearing regarding a retirement CCW permit.

18 67. Chronister further alleges that Defendants, and each of them, have
19 violated Plaintiff's right under the First and/or Fourteenth Amendment to the United
20 States Constitution as they have denied and/or retaliated against Plaintiff's individual
21 right to privacy, freedom of association and/or right to intimate association. Plaintiff
22 asserts that there was nothing about his relationship (with a woman, convicted of no
23 crimes, but disliked by Defendants) that adversely effected his job performance or
24 justified punitive action.

25 68. Chronister further asserts that the Police Department's policy interfering
26 with relationships is unconstitutional, as written and/or as applied to him. Plaintiffs
27 asserts that there are less restrictive means available to achieve any legitimate
28 governmental objections, if any said objectives exist.

1 69. Each of the acts herein described were taken against Chronister by said
2 defendants were undertaken in their individual capacity while purporting to act in the
3 performance of official duties under any state, county, or municipal law, ordinance.

4 70. The right to due process, freedom of association, right to privacy and/or
5 right to intimate relations is/are well established rights and has been such for over ten
6 years. The defendants, named in this Cause of Action, knew or should have known
7 that they were violating Chronister's rights both before and after said action was taken.

8 71. At all times relevant herein defendants, named and unnamed, were
9 agents and employees of Defendant and in carrying out the acts alleged herein were
10 acting in their individual capacity but under color of their authority as such and under
11 color of the statutes, regulations, customs, and usages of city and police department
12 and pursuant to a set pattern, practice and official policy of each respective
13 governmental entity. As a direct and proximate result of the aforementioned policies,
14 procedures, customs, and practices of defendants, plaintiff has suffered injuries and
15 damages in an amount to be proven at the time of trial.

16 72. Plaintiff is informed and believes, and thereon alleges that defendants
17 have conspired with one another and with DOE Defendants for the purpose and intent
18 to violate the rights of plaintiff, as alleged herein. Plaintiff is informed and believes that
19 said defendants engaged in such conspiracy with the intention to deprive plaintiff of his
20 rights.

21 73. Each of the individual defendants acted in concert, acted outside the
22 scope of his or her jurisdiction and without authorization of law, and each of the
23 individual defendants, separately and in concert, acted wilfully, knowingly and with
24 reckless disregard and deliberate indifference to the known consequences of their acts
25 and omissions and purposefully with the intent to deprive plaintiff of his federally
26 protected rights and privileges and did, in fact, violate those rights and privileges,
27 entitling plaintiff to punitive and exemplary damages in an amount to be proven at the
28 time of trial of this matter.

1 74. Despite the fact that the Defendants knew or should have known of the
2 facts that these acts, omissions, decisions, practices, customs and policies both formal
3 and informal, were being carried out by its agents and employees, defendants have
4 taken no steps or efforts to order a halt to this course of conduct, nor make redress to
5 Chronister thereby and has failed to take any disciplinary actions whatsoever against its
6 employees or agents.

7 75. As a direct result of these acts, plaintiff has suffered harm, lost future
8 wages and/or earning capacities resulting from the incident(s) as described herein, in
9 an amount to be determined according to the proof at time of trial.

10 76. As a direct and proximate result of the aforesaid acts, omissions,
11 customs, practices, policies and decisions of the Defendants, and each of them,
12 Chronister has suffered general mental pain, suffering, anguish, anxiety, grief, shock,
13 humiliation, indignity, embarrassment and apprehension, all to his/her/their damage in a
14 sum to be determined at trial. Additionally, plaintiff has been forced to incur substantial
15 amounts of attorney' fees, investigations, expenses and other cost in the prosecution of
16 the above articulated constitutional violations.

17 77. Plaintiff is entitled to and hereby demands, costs, attorney fees, and
18 expenses pursuant to 42 U.S.C. §1988.

19 78. Plaintiff hereby demands that a jury be impaneled for the trial of this
20 cause of action.

21
22 WHEREFORE, PETITIONER pray for judgment against
23

24 FIRST CAUSE OF ACTION

25 79. Relief pursuant to Government Code §3300, et seq., and/or Government
26 Code §3309.5, including, but not limited to issuance of appropriate injunctive or other
27 extraordinary relief to remedy the violation(s) as found and to prevent future violations
28 of a like or similar nature, including, but not limited to the granting of permanent

1 injunction prohibiting the public safety department from taking any punitive action
2 against the Plaintiff, and, ancillary damages for each and every violation, be ordered to
3 pay civil penalties not to exceed twenty-five thousand dollars (\$25,000), per violation, to
4 Plaintiff. Finally Plaintiff requests an award of actual damages and reasonable
5 attorney's fees as may be determined by the court.

6 80. Award of damages and/or attorney fees pursuant to C.C.P. §1090-1095
7 and/or Code of Civil Procedure §1021.5 and/or Government Code §800;

8 81. Award of damages pursuant to Code of Civil Procedure §§1090-1095.
9

10 SECOND CAUSE OF ACTION

11 82) Mandamus relief commanding defendants, and their agents, employees
12 and servants, to and each of them, to comply with their ministerial duty to strictly follow
13 their administrative regulations, municipal code and/or Memorandum of Understanding
14 covering Plaintiff's employment;

15 83) An award of damages pursuant to Code of Civil Procedures §§1090-1095.

16 84) Attorney fees pursuant to Code of Civil Procedure §1021.5 and/or
17 Government Code §800;

18 THIRD CAUSE OF ACTION

19 85) Mandamus relief commanding defendants, and their agents, employees
20 and servants, to and each of them, to issue to Plaintiff a retired peace officer's
21 identification certificate with endorsement for carrying concealed weapon, or hold
22 hearing in compliance with the above sections;

23 86) An award of damages pursuant to Code of Civil Procedures §§1090-1095.

24 87) Attorney fees pursuant to Code of Civil Procedure §1021.5 and/or
25 Government Code §800;

26 FOURTH CAUSE OF ACTION

27 88) General damages according to proof.
28

- 1 89) Special damages according to proof
2 90) Punitive damages according to proof.
3 91) Costs, interest, prejudgment interest, attorney fees, and such other relief
4 as is just and proper.

5
6 ALL CAUSES OF ACTION

- 7 92) Attorney fees in accordance with California Government Code §800;
8 93) Reasonable attorney fees in accordance with California Code of Civil
9 Procedure §1021.5;
10 94. Award damages in accordance with Government Code §3309.5,
11 California Code of Civil Procedure §§1090 and 1095, and/or 42 USC §1983;
12 95. Attorney fees and cost pursuant to 42 U.S.C. §1988
13 96. Costs of suit incurred herein; and
14 97. Such other and further relief as the court deems proper under the
15 circumstances.

16
17 Dated: May 2, 2013

COREY W. GLAVE, ATTORNEY AT LAW

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19 By: 

20 Corey W. Glave
21 Attorneys for Plaintiff
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I am a named plaintiff to this action. I have read the foregoing COMPLAINT, and know the contents thereof. Said document was prepared with the assistance and advice of counsel, upon which I have relied. The matters stated in the foregoing document, as they related to me are true except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.


THOMAS CHRONISTER